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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,555	10/01/2003	Cheng-Chi Wang	250317-1070	7657
24504	7590	06/14/2004	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			NGUYEN, THANH T	
			ART UNIT	PAPER NUMBER
			2813	

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/676,555	Applicant(s) WANG, CHENG-CHI	
	Examiner Thanh T. Nguyen	Art Unit 2813	<i>Am</i>

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondenc address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 4-7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-3, drawn to a hillock-free gate layer, classified in class 257, subclass 771.
- II. Claims 4-7, drawn to a method of manufacturing a hillock-free gate layer for preventing formation of hillocks, classified in class 438, subclass 688.

The inventions are distinct, each from the other because of the following reasons:

Inventions II and I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the product can be form by materially different process, for example forming an aluminum layer containing nitrogen by CVD method.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Daniel McClure on 6/4/04 a provisional election was made with traverse to prosecute the invention of group I, claims 1-3. Affirmation of this election must be made by applicant in replying to this Office action. Claims 4-7 are withdrawn

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from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Priority***

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119

(a)-(d).

***Oath/Declaration***

Oath/Declaration filed on 10/1/03 has been considered.

***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sakata et al. (U.S. Patent No. 6,252,247).

Referring to figure 1a, Sakata et al. teaches a hillock-free gate layer, the gate layer comprising:

At least one pure aluminum layer (2) formed on the substrate (1); and

An aluminum layer containing nitrogen (3) formed on the pure aluminum layer;

Wherein the aluminum layer containing nitrogen prevents the pure aluminum layer from generating hillocks (see col. 7, lines 18-29).

Regarding to claim 2, aluminum layer containing nitrogen is an AlN layer (see col. 7, lines 18-29).

Regarding to claim 3, aluminum layer containing nitrogen is an AlON layer (see col. 10, lines 42-45). Noted that since adding N, O to form the second layer of aluminum alloy electrode (AlON).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh Nguyen whose telephone number is (571) 272-1695, or by Email via address Thanh.Nguyen@uspto.gov. The examiner can normally be reached on Monday-Thursday from 6:00AM to 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead, Jr., can be reached on (571) 272-1702. The fax phone number for this Group is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956 (**See MPEP 203.08**).

A handwritten signature in black ink, appearing to read 'Thanh', with a stylized flourish extending to the left.

Thanh Nguyen  
Patent Examiner  
Patent Examining Group 2800

TTN